

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 00-3760

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United States of America,

Appellee,

v.

Angel Lomas-Flores,

Appellant.

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Appeal from the United States  
District Court for the District  
of Minnesota.

[UNPUBLISHED]

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Submitted: May 18, 2001

Filed: May 24, 2001

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Before LOKEN, ROSS, and FAGG, Circuit Judges.

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PER CURIAM.

Angel Lomas-Flores pleaded guilty to illegally reentering the United States after deportation in violation of 8 U.S.C. § 1326(a). Generally, the statutory maximum sentence for this offense is two years. See id. If the alien was deported following a conviction for an aggravated felony, however, the statutory maximum sentence is twenty years. See id. § 1326(b)(2). Because Lomas-Flores had been deported after his conviction for an aggravated felony, the district court\* sentenced him to seventy months

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\*The Honorable Paul A. Magnuson, United States District Judge for the District of Minnesota.

in prison. Relying on Apprendi v. New Jersey, 530 U.S. 466 (2000), Lomas-Flores contends his felony conviction must be charged in the indictment because the conviction increases the statutory maximum penalty from two to twenty years. This contention is foreclosed by our decision in United States v. Raya-Ramirez, No. 00-3839, 2001 WL 300563, at \*1 (8th Cir. Mar. 29, 2001). In Raya-Ramirez, we held Apprendi did not overrule Almendarez-Torres v. United States, 523 U.S. 224, 226 (1998) (§ 1326(b)(2) enhancement properly applied to defendant who pleaded guilty to violating § 1326(a), even though the indictment did not allege the defendant's earlier aggravated felony convictions or mention § 1326(b)(2)). The district court thus properly applied the enhancement in Lomas-Flores's case, and we affirm his sentence.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.